

34

Notice of Allowability	Application No.	Applicant(s)	
	10/694,928	MAXWELL ET AL.	
	Examiner	Art Unit	
	Derek L. Dupuis	2883	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
 All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- 1. ☒ This communication is responsive to 12/8/2006.
- 2. ☒ The allowed claim(s) is/are 25,29-32,35,43-45 and 66-71.
- 3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

- 4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 - 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
- 6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>11/7/2006</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Dennis Fernandez on 1/5/2007.

The application has been amended as follows:

Please cancel claims 1-24 and 49-65.

Election/Restrictions

2. Claims 25, 35, 43-45, and 66-71 are allowable. The restriction requirement among species, as set forth in the Office action mailed on 4/7/2005, has been reconsidered in view of the allowability of claims to the elected invention pursuant to MPEP § 821.04(a). **The restriction requirement is hereby withdrawn as to any claim that requires all the limitations of an allowable claim.** Claims 29-32, directed to a waveguide with a bend are no longer withdrawn from consideration because the claim(s) requires all the limitations of an allowable claim.

In view of the above noted withdrawal of the restriction requirement, applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

Once a restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

Claims 25, 29-32, 35, 43-45, and 66-71 are pending. Claims 1-24, 26-28, 33, 34, 36-42, and 46-65 stand cancelled.

Response to Arguments

3. Applicant's arguments, see pages 5-7, filed 6/23/2006, in combination with the amendment to the claims filed 12/8/2006, with respect to the rejection of claims 25, 35, 43-45, and 66-71 have been fully considered and are persuasive. The rejection of claims 25, 35, 43-45, and 66-71 has been withdrawn.

4. Cho et al nor Ghoshal et al disclose or render obvious an integrated optical waveguide comprising a substrate and a light transmissive element comprising a waveguide and a lens as a unitary body, wherein the lens has a face perpendicular to the substrate and focuses and collimates light in a plane parallel to the substrate.

Information Disclosure Statement

5. The information disclosure statement (IDS) submitted on 11/7/2006 was filed after the mailing date of the first action on 6/30/2005. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Allowable Subject Matter

6. Claims 25, 29-32, 35, 43-45, and 66-71 are allowed.

7. The following is an examiner's statement of reasons for allowance:

Art Unit: 2883

8. Claim 25 is allowable over the prior art of record because the latter, either alone or in combination, does not disclose nor render obvious an integrated optical waveguide comprising a substrate, a light transmissive element including a waveguide and a lens as a unitary body, and an upper cladding patterned to have at least one region in which the light transmissive element is air clad, wherein the lens has a face perpendicular to the substrate and focuses and collimates light in a plane parallel to the substrate and a lens face width at least 50% larger than the waveguide in combination with the rest of the claimed limitations.

9. Claims 29-32, 35, 43-45, 66, and 67 are dependent upon claim 25 are allowable for the same reasons.

10. Claim 68 is allowable over the prior art of record because the latter, either alone or in combination, does not disclose nor render obvious an integrated optical waveguide comprising a substrate, one or more light transmissive elements each including a waveguide and a lens as a unitary body, and one or more cladding layers including at least one cladding layer patterned to have at least one region with the cladding material removed from at least one region of the one or more light transmissive elements, wherein the lens has a face perpendicular to the substrate and a lens face width at least 50% larger than the waveguide and focuses and collimates light in a plane parallel to the substrate in combination with the rest of the claimed limitations.

11. Claims 69-71 are dependent upon claim 68 are allowable for the same reasons.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derek L. Dupuis whose telephone number is (571) 272-3101. The examiner can normally be reached on Monday - Friday 8:30am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Frank G. Font can be reached on (571) 272-2415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Derek L. Dupuis
Group Art Unit 2883


Frank G. Font
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